International Seabed Authority ISBA/18/C/10

Council

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Status of the draft collective arrangement between competent authorities on the management of selected areas in areas beyond national jurisdiction in the North-East Atlantic

Note by the secretariat

I. Background

1. Both the United Nations Convention on the Law of the Sea ("the Convention") and the resolutions of the General Assembly on ocean affairs and the law of the sea emphasize the fact that activities in the oceans are interrelated and need to be considered as a whole. Better cooperation and coordination between international organizations with mandates over activities in the ocean is therefore essential, not only for a consistent approach but also to ensure the comprehensive protection of the marine environment as part of sustainable development. To this end, the OSPAR Commission, established by the Convention for the Protection of the Marine Environment of the North-East Atlantic ("the OSPAR Convention") signed in Paris on 22 September 1992,[1] and the International Seabed Authority have maintained a dialogue since 2008.

A. First contacts at the secretariat levels

2. In 2008, the OSPAR Commission contacted the Authority with respect to a proposal for the establishment of a marine protected area at the Charlie Gibbs Fracture Zone. This area is located on the Mid-Atlantic Ridge, beyond the limits of national jurisdiction but within the OSPAR Maritime Area. At an informal meeting in September 2008, the secretariats of the OSPAR Commission, the Authority and the North-East Atlantic Fisheries Commission (NEAFC) agreed that the overlapping

[1] Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland, together with the European Union, are parties to the OSPAR Convention. All of them are also members of the Authority.

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jurisdictions and mandates of the organizations concerned made it necessary to establish a dialogue with a view to ensuring that the management of marine protected areas takes place with due regard to the rights and duties of States as set out in the Convention and the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, and with respect to the Authority's jurisdiction to manage activities in the Area. At the same time, the Authority was provided with the comprehensive rationale behind the proposal to establish the Charlie Gibbs Fracture Zone marine protected area.

3. The secretariat of the Authority also provided information on the rules, regulations and procedures setting out the conditions for prospecting and exploration in the Area to the OSPAR Working Group on Marine Protected Areas, Species and Habitats at a meeting in Spain in October 2008 and during a seminar in France in December 2008, which related to the implementation of the European Union Marine Strategy Framework Directive in areas beyond national jurisdiction.

B. Memorandum of understanding and reciprocal observer status

4. In the process of finalizing the proposed marine protected area at the Charlie Gibbs Fracture Zone, the OSPAR Commission Contracting Parties met on 11 and 12 November 2008 and acknowledged the mandate of the Authority as the sole organization to regulate deep seabed mining. At that meeting they also welcomed the idea of a memorandum of understanding between the OSPAR Commission and the Authority with a view to ensuring the appropriate coordination of measures between the two organizations. Earlier that year, the OSPAR Commission and NEAFC had concluded a similar memorandum of understanding.

5. During the debate on the annual report of the Secretary-General of the Authority at the fifteenth session in 2009, the Assembly of the Authority welcomed the development of such a memorandum of understanding and requested the Secretary-General to pursue the dialogue with the Executive Secretary of the OSPAR Commission for that purpose during 2009.

6. In 2010, following further discussions on the terms of a memorandum of understanding between the secretariats of the two organizations, a draft prepared by the Authority was circulated to the OSPAR Commission Contracting Parties in accordance with the procedures of the organization and was further considered at the meeting of the OSPAR Commission heads of delegation on 17 February 2010. Subject to editorial changes, the OSPAR Commission Contracting Parties agreed that the proposed memorandum of understanding could be submitted to the Authority for approval at its sixteenth session.

7. During the sixteenth session, at its 125th meeting on 27 April 2010, the Assembly considered a request for observer status by the OSPAR Commission in accordance with rule 82, paragraph 1 (d) of the rules of procedure of the Assembly (ISBA/16/A/INF.2) and decided to invite it to participate as an observer in its meetings. At the same meeting, the Assembly took note of and approved the text of the memorandum of understanding.

8. Following its approval by the Assembly, the memorandum of understanding was submitted to the OSPAR Commission heads of delegation that approved it at the annual meeting of the OSPAR Commission in Bergen, Norway, from 20 to

24 September 2010. At that meeting, the OSPAR Commission Contracting Parties also agreed to grant observer status to the Authority.

9. The dialogue between the OSPAR Commission and the Authority also took place informally by participation in meetings and workshops relating to the environmental management plan in the Clarion-Clipperton Zone or on the management of selected areas in areas beyond national jurisdiction in the North-East Atlantic.

II. Draft collective arrangement between competent authorities on the management of selected areas in areas beyond national jurisdiction in the North-East Atlantic

10. The proposed draft collective arrangement between the competent authorities in the North-East Atlantic represents a further step forward in the development of closer cooperative arrangements with the OSPAR Commission with respect to the coordination of management measures to safeguard biodiversity in the North-East Atlantic.

11. The origin of the draft collective arrangement dates back to 2009, when the OSPAR Commission Contracting Parties decided to organize an informal meeting on options for the management of selected areas in areas beyond national jurisdiction within the OSPAR maritime area in anticipation of the designation of six marine protected areas in areas beyond national jurisdiction in the North-East Atlantic. The meeting, held in March 2010 in Funchal, Madeira, Portugal, concluded that it was necessary to move from a sectoral to an integrated ecosystem-based approach given that the management of human activities in the North-East Atlantic falls under the competences of various organizations. For that purpose, the meeting agreed that there was a need for a collective arrangement between all the competent authorities, including the Authority, on the management of marine areas beyond national jurisdiction in the North-East Atlantic.

12. The OSPAR Commission Contracting Parties adopted a draft collective arrangement at a meeting held from 20 to 24 June 2011 in London and agreed to submit it to other relevant competent authorities for their consideration.

13. The draft collective arrangement, which is contained in the document ISBA/18/C/CRP.1, would apply to six selected marine areas beyond national jurisdiction in the North-East Atlantic. These areas are all designated as OSPAR marine protected areas, NEAFC areas closed to fisheries and other areas where other competent organizations manage human activities in order to protect and conserve the marine environment of the North-East Atlantic. Annex I to the draft collective arrangement indicates the approximate surface and the list of coordinates of the selected areas. At their meeting from 25 to 29 June 2012, the OSPAR Commission Contracting Parties agreed to designate a seventh selected marine area beyond national jurisdiction, the so-called Charlie Gibbs North High Seas Marine Protected Area, details of which will be communicated to the Authority in the near future. The draft collective arrangement would also apply to this marine protected area.

14. The draft collective arrangement sets out on which basis the cooperation between competent organizations will take place. The basis consists of joint principles for the conservation and management of selected areas beyond national

jurisdiction in the North-East Atlantic (see ISBA/18/C/CRP.1, annex II), memorandums of understanding including the memorandum of understanding between the OSPAR Commission and the Authority and scientific information establishing the value and vulnerability of the biodiversity within the selected areas and the Convention. Under the draft collective arrangement, the parties would commit, within the framework of their respective mandates and competence, to cooperate in the development and implementation of appropriate measures for the conservation and management of the selected areas. To this end, the arrangement elaborates on the means of cooperation, including by the exchange of standardized data, the sharing of databases, scientific information and environmental assessment and monitoring data and by the regular review of the progress made in connection to management measures.

III. Recommendations

15. Taking into account that increased cooperation between organizations with mandates over activities beyond national jurisdiction is essential for consistent and comprehensive protection of the marine environment, the Council is invited to take note of the draft collective arrangement between competent authorities on the management of selected areas in areas beyond the limits of national jurisdiction in the North-East Atlantic and to request the Secretary-General to continue to pursue the dialogue with the Executive Secretary of the OSPAR Commission with a view to the implementation of the draft collective arrangement and on other matters of mutual interest for the two organizations.